

FINAL

**Meeting Summary - Portland Harbor Superfund Site | Briefing + Discussion with EPA Senior Leaders
Monday, December 9, 2019 | EPA Oregon Operations Office**

Action Items	Who?	By When?
1. Provide information regarding how many other sites initiated an ESD for benzo(a)pyrene.	EPA to 12/9 meeting attendees	EPA plans to provide an update at the March 11, 2020 community leaders group meeting
2. Provide an update with which signed agreements have been completed and the status of signed agreements for remedial design. <ul style="list-style-type: none">• <i>i.e.</i>, Provide an estimated percentage or vague number so that Community Leaders understand how far away we are from 100% if possible.	EPA to 12/9 meeting attendees	By 1/2/2020 in letter (from EPA R10 Administrator Chris Hladick) to community leaders
3. EPA will provide an update at the end of 2019 regarding what enforcement looks like if signed agreements are not completed.	EPA to 12/9 meeting attendees	By 1/2/2020 in letter (from EPA R10 Administrator Chris Hladick) to community leaders
4. Follow-up on potentially adding staff to Region 10 to support the SuperJTI program at the Site.	EPA to discuss internally; then inform community leaders	EPA plans to provide an update at the March 11, 2020 community leaders group meeting

Proposed Agenda, Topics and Questions, & Final Explanation of Significant Differences Update

The meeting started with a round of introductions; participants provided their names and affiliations. See attached *Appendix A: List of Participants*.

Laura Knudsen, The U.S. Environmental Protection Agency (EPA) Region 10 Community Involvement Coordinator (CIC), provided an overview of the meeting agenda and thanked the group for their attendance. She stated that the meeting was to convene the Technical Coordinating Team tribal members and representatives, DEQ, the Community Leaders, and EPA Headquarters and Region 10 staff to engage in dialogue and respond to requested updates and questions as follows:

1. **Pre-Remedial Design (Pre-RD) Group Work:** Please provide an update on the status of EPA's agreement with the Pre-Remedial Design Group (regarding baseline sampling) and any interactions with the Pre-Remedial Design Group.
2. **Signed Agreements for Remedial Design:** Please provide an update on the status of agreements that EPA has signed with Potentially Responsible Parties (PRPs) for remedial design. This time last year and throughout this year, EPA has stated that agreements for 100% remedial design would be in place by the end of 2019.
3. **Use of EPA Enforcement Tools:** Will EPA utilize enforcement tools for PRPs who are not stepping up to sign agreements for remedial design?

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- 4. EPA Region 10 Portland Harbor Staff Hiring Goals and Processes:** Please provide updates on any staffing or hiring changes to the EPA Region 10 Portland Harbor team. We feel it is important for Portland Harbor community stakeholders to understand the changes EPA headquarters and Region 10 have in mind for staffing, that could have implications on the cleanup process and public health.
- 5. Superfund Job Training Initiative (SuperJTI):** Please provide an update on EPA's work on the Superfund Job Training Initiative at the Portland Harbor Superfund site.

EPA announced that EPA's Administrator Andrew Wheeler signed the final Explanation of Significant Differences (ESD) that identifies changes to the Selected Remedy in the 2017 Record of Decision (ROD) at the Site. This ESD occurred because EPA's Integrated Risk Information System (IRIS) issued a reduction in the potency of cancer risk for benzo(a)pyrene which is a polycyclic aromatic hydrocarbon (PAH) and a contaminant of concern at the Site.

Meeting attendees asked questions and EPA provided responses as follows:

- **Q: How many Superfund Sites nationally, aside from Portland Harbor, initiated an ESD for benzo(a)pyrene?**
 - EPA responded that there may be at least one other site; however, they need to confirm.
- **Action Item 1:** EPA will provide information to attendees regarding how many other sites initiated an ESD for benzo(a)pyrene.
- **Q: What are the additional mechanisms (if any) to appeal this decision?**
 - EPA responded that the Final ESD has been signed by the Administrator and that there are no additional mechanisms for appeal. However, anyone may submit new information (that was not previously provided) to EPA for consideration regarding the ESD.
 - EPA reminded attendees that public comments were considered and responded to in a 'Responsiveness Summary' that is included in the [final ESD](#) as Appendix B (starting on page 162 of 500).

Discussion of Questions Heard from Community Leaders

Request #1: Pre- Remedial Design Group Work: Please provide an update on the status of EPA's agreement with the Pre-Remedial Design Group (regarding baseline sampling) and any interactions with the Pre-Remedial Design Group.

EPA stated that they had met with the Pre-RD Group earlier that day to clarify EPA's position on the data received during the Pre-RD Baseline Sampling work. EPA plans to post its evaluation of the data on the EPA website soon. EPA's shared that its position that:

- The data are consistent with the ROD and support moving to design and cleanup. In addition to data collected and analyzed in the Remedial Investigation/Feasibility Study (RI/FS), EPA expects to use this new data as the cleanup moves to the remedial design phase.
- EPA's analysis of the data shows that, as expected, in the previously identified active remediation areas (sediment management areas (SMAs)/hot spots) with the highest levels of contaminants, those contaminants still exceed the remedial action (cleanup) levels.
- These hot spot areas will still require active cleanup to protect human health and the environment, and to help provide certainty to businesses and other property owners along the river.
- The data does indicate that Monitored Natural Recovery (MNR) is occurring as expected in some areas, but not in the hot spot areas. Hot spot areas still require active cleanup.
- In the ROD, EPA concluded that 84% of the site would undergo MNR and 16% of the site would receive active cleanup.

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The December 9 discussion with the Pre-RD Group was to go through the technical issues and brainstorm solutions to move forward. Meeting attendees asked questions and EPA provided responses as follows:

- **Is EPA's position to not open the Record of Decision (ROD)?**
 - EPA does not intend to open the ROD. EPA noted that their goal for these conversations with the Pre-RD Group is to inform the remedial design moving forward.
- **It appears there is continued negotiating or "back and forth" with the PRPs in the Pre-RD Group, is there clarification about what is currently occurring?**
 - EPA responded that further discussion is occurring because the Pre-RD Group wants to better understand why EPA did not support their conclusions in the Pre-RD Baseline Sampling Report. Although the report has good data and information that EPA can use to inform decision-making in the remedial design process, EPA disputes some of the conclusions made by the Pre-RD Group about the interpretation of the data. These conversations are to work through that. The PRPs want to understand how we looked at the data and why we do not agree with their conclusions.
 - EPA noted that if EPA and these PRPs do not reach an agreement, the issue may go to the Administrator for decision.
- **The perceptions from a community point of view is that there is little transparency about the intentions of these discussions. Also, the imbalance of time between focusing on the PRPs versus the tribes and communities is an issue. EPA is using a lot of its capacity and resources on the PRPs.**
 - EPA acknowledged the comment and added that the process going on now will be able to support the remedial design going forward.
- **Many of the community stakeholders view these PRP entities in the Pre-RD Group to be "aggressively antagonistic" against environmental efforts for river restoration. If this decision moves to the Administrator, will he support the EPA Headquarters and Region 10 staff on this decision or is there a possibility the entire decision will go to the Administrator himself? If the latter, would the Administrator side with the PRPs and change course?**
 - EPA stated that any decision over \$50 million does go to the Administrator for review. The Administrator has devoted significant time to the Portland Harbor Site and would like to understand more about differences between EPA and the Pre-RD Group. The current work (discussions with PRPs in the Pre-RD Group) is supposed to inform the design. EPA does not expect any changes to the ROD based on the Pre-RD Remedial Design Baseline Sampling Report.
- **Who is the EPA Administrator and is he politically appointed?**
 - EPA said that the EPA Administrator's name is Andrew Wheeler and he is politically appointed. Administrator Wheeler worked at the EPA in the early part of his career, worked two decades as a government employee, and has worked in the private business sector. To learn more about EPA Administrator Wheeler, please visit www.epa.gov/aboutepa/epas-administrator
- **Communities understood the Portland Harbor River was depositional; to suggest it again when it has already been addressed seems inefficient. Where are we now?**
 - EPA said that there are areas of deposition, neutral, and erosional. The amount of data that is collected is not enough to go into remedial design on any site. EPA needs more data to understand what is currently occurring. EPA also noted that the PRPs in the Pre-RD Group have a different interpretation of the data.

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- **What needs to be changed? Is this common knowledge or provided on EPA's website?**
 - EPA stated that the information can be found from the [Pre-RD Remedial Design Report](https://semspub.epa.gov/work/10/100173734.pdf) (link: <https://semspub.epa.gov/work/10/100173734.pdf>) from June 2019 in the following sections:
 - For a general overview of the Pre-RD Group's interpretations of the data they collected, read pages 14-16 in the Executive Summary
 - For more specific, technical details of the Pre-RD Group's main points, read pages 46-61 in Chapter 3

Request #2: Signed Agreements for Remedial Design: Please provide an update on the status of agreements that EPA has signed with Potentially Responsible Parties (PRPs) for remedial design. This time last year and throughout this year, EPA has stated that agreements for 100% remedial design would be in place by the end of 2019.

EPA stated that it expects PRPs to step up and conduct 100% of remedial design cleanup plans for the Site. EPA is encouraged with the progress made so far. Remedial design is underway at River Mile 11, Gasco, and Terminal 4/Port of Portland. EPA is currently negotiating with several parties for the performance of the remedial design of a significant portion of the Site. These PRPs who have stepped forward show a commitment to keep the cleanup moving ahead. EPA expects that with more progress on agreements for remedial design and cleanup, and by continuing our collaborative work with the state, the city, our tribal and federal partners, responsible parties and the community, we can keep this cleanup moving toward our shared goals.

Meeting attendees made comments, asked questions and EPA provided responses as follows:

- **Comment:** Meeting attendees had several questions regarding this topic as well as to better understand the process of completion of the project, noting the several delays in the project timeline and concerns regarding enforcement and funding of the cleanup efforts.
- **Did the City and State's effort of offering an incentive increase the number of signed agreements?**
 - EPA said that there was a positive reaction to the incentive to offer funds that coincided with the deadline.
- **If there was a goal to finalize signed agreements by the end of 2019, it appears the goal will not be accomplished.**
 - EPA is still in negotiations at different areas of the Site that we do plan to have completed by the end of 2019 or early 2020. Due to confidentiality, EPA cannot provide numbers or percentages disclosing how many parties are in active negotiations.
- **Q: Could you provide a percentage of how far EPA is in the process of completion?**
 - **A:** For remedial design, EPA is in active negotiation and hopes to achieve 100% or close to 100% by the end of 2019.
- **Action Item 2:** EPA will provide an update by January 2, 2020 with which agreements have been completed and the status of signed agreements for remedial design (i.e., provide an estimated percentage or vague number so that Community Leaders understand how far away we are from 100% if possible).

Request #3: Use of EPA Enforcement Tools: Will EPA utilize enforcement tools for PRPs who are not stepping up to sign agreements for remedial design?

EPA stated that its enforcement strategy is confidential; however, it is common practice to constantly evaluate our options under the Superfund law.

Meeting attendees made comments, asked questions and EPA provided responses as follows:

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- **It is not uncommon for professionals who have worked their entire careers on the Portland Harbor effort to hear that the project will not be completed within their career or life. It is critical for community members and professionals to hear from EPA what they will do to take on enhanced enforcement options in the year 2020. What are the options for enhanced enforcement?**
 - EPA stated that there are a few options. One is the unilateral administrative order to enforce remedial design and the other option includes EPA taking on the work for designing and funding the cleanup on its own.
- **Is there a mechanism for EPA to conduct the cleanup despite funding not being present? Could the EPA get a special appropriation from the federal government?**
 - EPA responded that yes, it is possible; however, there are limitations. EPA cannot spend money unless it is appropriated to them. They could accept a special appropriation from the government; however, it would be unlikely that they would receive one.
- **Comment:** The timeline EPA has provided during this meeting places construction to occur six-to-seven years from present day. The community has felt that the federal agencies have been lenient with the PRPs, which has resulted in constant delays in project actions. Communities were told the agreements to remedial designs would be signed by the end of the year; however, it appears this will not be accomplished. The communities request that enforcement efforts begins in 2020.
- **When will enforcement happen and how?**
 - EPA will provide an update by January 2, 2020.
- **Action Item 3:** EPA will provide an update by January 2, 2020 regarding what enforcement looks like if signed agreements are not completed.
- **The PRPs that have not come to the table have permitting and zoning by local and state laws. Are there examples in other areas in the country where PRPs have been required to stop operating if they did not participate in remedial efforts?**
 - EPA responded that this is a legal question and that EPA does not have a say in city or state regulations.

Request #4: EPA Region 10 Portland Harbor Staff Hiring Goals and Processes: Please provide any updates on staffing or hiring changes to the EPA Region 10 Portland Harbor team. We feel it is important for Portland Harbor community stakeholders to understand the changes EPA headquarters and Region 10 have in mind for staffing, that could have implications on the cleanup process and public health.

EPA stated that it has been making a concentrated effort to increase the staff in Oregon to work on the Portland Harbor Site. EPA noted that Hunter Young was hired last year, and Ben Leake was recently hired. EPA said that there is a vacancy in the Portland office and EPA is currently interviewing individuals. This position was announced and advertised both publicly and internally to EPA.

Meeting attendees made comments as follows:

- Those in attendance expressed their support for EPA's existing staff; however, there has been a concern from the community on how many people have left the effort.
- The community wants someone on the EPA team that they know. The current staff has shown exemplary leadership and communication with communities. The community sees EPA Headquarters and other senior staff attending meetings one or two times a year. If the team changes again, the community will perceive it poorly.
- By keeping one consistent team, it would help retain the institutional knowledge of the Site.

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- The community members would like to have the same EPA team that they have been working with over the past two years.

Request #5: Superfund Job Training Initiative: Please provide an update on EPA's work on the Superfund Job Training Initiative at the Portland Harbor Superfund site?

EPA provided a Superfund Job Training Initiative (SuperJTI) update as follows:

- The SuperJTI is a very successful EPA program that we hope to implement at Portland Harbor.
- EPA will work with both the local community and PRPs to implement SuperJTI for the Portland Harbor cleanup.
- Regarding the timing of a SuperJTI pilot program, EPA plans to start scoping this possibility with PRPs in early 2020.
- EPA held a [webinar on August 7, 2019](#), to talk about the SuperJTI program and proposed next steps for the Site.

Meeting attendees made comments as follows:

- The community leaders requested for EPA to add internal capacity to support the SuperJTI as it is an important priority for the community.
 - EPA responded that it will take this into consideration.
- **Action Item 4:** EPA will discuss internally and follow-up on potentially adding staff to Region 10 to support the SuperJTI program at the Site.
- Many members noted how important and resourceful the Region 10 CIC has been for the community.

Wrap Up and Last Thoughts

EPA thanked everyone for attending the meeting and that EPA will follow-up with a high-level meeting summary. The meeting was adjourned at approximately 7:30 p.m.

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ATTACHMENT A – Meeting Attendees

In alphabetical order by first name.

Name	Agency & Title or Organization Affiliation
Amyl Freeberg	Willamette River Advocacy Group
Annie Kilburg (notetaker)	Triangle Associates
Benjamin Leake	EPA, Remedial Project Manager
Bob Sallinger	Audubon Society of Portland
Brandy Humphreys	Confederated Tribes of Grand Ronde
Brett Doyle	EPA, Headquarters Senior Advisor for Strategic Initiatives for the Office of the Administrator
Cassie Cohen	Portland Harbor Community Coalition (PHCC)
Chris Hladick	EPA, Regional Administrator for Region 10
Courtney Johnson (Phone)	Nez Perce Tribe
Cyndy Mackey	EPA, Headquarters Director for the Office of Site Remediation and Enforcement
Darise Weller	Linnton Neighborhood Association
Debbie Aiona	League of Women Voters
Gail Fricano (Phone)	Technical Consultant for Five Tribes
Holly Partridge (Phone)	Confederated Tribes of Grand Ronde
Hunter Young	EPA, Remedial Project Manager
Jackie Calder	Portland Harbor Community Advisory Group
Jessica Rojas (Phone)	NE Coalition of Neighborhoods
Jim Woolford	EPA, Headquarters Director for the Office of Superfund Remediation and Technology Innovation
Kevin Parrett	DEQ
(b) (6)	Sauvie Island Grange
(b) (6)	Occupy St. Johns
Laura Knudsen (facilitator)	EPA, Region 10 Community Involvement Coordinator
Marion McNamara	League of Women Voters
Michael Pouncil	Portland Harbor Community Advisory Group
Ranfis Giannettino Villatoro	BlueGreen Alliance – Policy Coordinator
Sarah Greenfield	DEQ
Sarah Taylor	North Willamette Watershed Council
Sean Sheldrake	EPA, Remedial Project Manager
Sheila Fleming	EPA, Region 10 Deputy Director for the Superfund and Emergency Management Division
Silvina Fonseca	EPA, Headquarters Senior Advisor for the Office of Land and Emergency Management
Steven Goldstein	Sierra Club
Tony Barber	EPA, Director of Region 10 Oregon Operations Office